

INTER-AGENCY OPERATIONAL AGREEMENT
PENAL CODE §17(b)(4) REFERRALS

SCHEDULE I

DIRECT REFERRAL CRITERIA FOR 17(b)(4) OFFENSES

Possession of Methamphetamine (Health and Safety Code §11377)

- No prior felony convictions
- No prior misdemeanor convictions for drug related offenses within the last three years
- No evidence of sales activity connected with the current offense
- One gram or less of methamphetamine is possessed

Possession of PCP (Health and Safety Code §11377)

- No prior felony convictions
- No prior misdemeanor convictions for drug related offenses within the last three years
- No evidence of sales activity connected with the current offense.
- Three milliliters or less liquid or two "sherms" or less is possessed

Grand Theft (Penal Code §487(a))

- No prior felony convictions
- No prior misdemeanor convictions for theft or fraud related offenses within the last five years
- The theft did not involve the use of credit cards or constitute a form of identity theft
- Aggregate loss is \$2,500 or less

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Petty Theft with a Prior (Penal Code §666/484)

- No prior felony convictions
- No more than one prior qualifying misdemeanor theft or fraud related conviction within the last five years
- Property stolen was food or beverage, excluding liquor, valued at \$30.00 or less.

Auto Burglary (Penal Code §459, vehicle)

- No prior felony convictions
- No prior misdemeanor convictions for theft related offenses within the last five years
- Burglary of a single vehicle
- Aggregate damage is \$2,500 or less

Forgery (Penal Code §470, et.seq.)

- No prior felony convictions
- No prior misdemeanor convictions for theft or fraud related offenses within the last five years
- No indicia of identity theft (e.g., phony license, possession of multiple credit cards with different names)
- Forgery of a single document
- Aggregate value of attempted or actual theft is \$2,500 or less

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Vandalism (Penal Code §594)

- No prior felony convictions
- No prior misdemeanor convictions for offenses involving property damage
- No indicia that the crime was motivated by gang involvement or that the crime is hate related
- Property damage is less than \$1,000

Weapon Possession (Penal Code §12020)

- No prior felony convictions
- Weapon was not used in the commission of a crime
- No prior convictions for weapons or assault crimes
- Defendant is not a gang member or associate gang member
- The weapon is not a firearm

Commercial Burglary (Penal Code §459)

- No prior felony convictions
- No more than one prior qualifying misdemeanor theft or fraud related conviction within the last five years
- Property stolen was food or beverage, excluding liquor, valued at \$30.00 or less (Redondo Beach suggestion was that value be \$400.00 or less; LAPD suggests \$2500 or less)
- No tools were used in the entry
- No electrical devices were used to defeat alarms
- No “booster bags” were used

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Possession of a Controlled Substance (Health & Safety Code §11377/11375/11382)

- No prior felony convictions
- No prior misdemeanor convictions for drug related offenses within the last three years
- No evidence of sales activity connected with the current offense
- Quantity possessed clearly demonstrates possession for personal use

Unlawful Driving or Taking of a Vehicle (Vehicle Code §10851; Penal Code §487(d))

- No prior felony convictions
- No prior misdemeanor convictions for auto theft; including vehicle tampering
- The theft was not related to a criminal enterprise or chop-shop operation
- No pursuit involved in apprehension or arrest
- No significant damage to the victim's vehicle

Assault with Force Likely to Produce GBI (Penal Code §245(a) (1))¹

- No prior felony convictions
- No misdemeanor convictions involving violence or threats of violence
- No weapon involved
- No significant injuries

¹ For cases involving family members or intimate partners, please refer to the standards for violations of 273.5 PC below.

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Battery on a Police Officer (Penal Code §243(c) (1), (2))

- No prior felony convictions
- No misdemeanor convictions involving violence or threats of violence
- No weapon involved
- No significant injuries

Criminal Threats (Penal Code §422)

- No prior felony convictions
- No prior misdemeanor convictions involving violence or threats of violence
- No weapon was involved – used, possessed or threatened (a weapon is any instrument that can be used to inflict injury)

Unlawful Sexual Intercourse (Penal Code §261.5)

- Suspect is 20 years of age or younger
- Victim is 16 years of age or older
- Sex is consensual
- No prior felony convictions
- No alcohol or drugs involved
- No prior investigation or arrest for committing a sexual offense
- No traumatic condition in the instant case

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Spousal Abuse (Penal Code §273.5)²

- No weapon involved in the commission of the offense (e.g, used, possessed or threatened)
- No prior felony convictions
- No *significant injury* (including any loss of consciousness)³
 - Examples of *non-significant injuries*, include, but are not limited to:
 - minor redness,
 - swelling, scratches, or
 - moderate bruising
 - Examples of *significant injury* include but are not limited to:
 - moderate to extensive bruising,
 - open wounds that required stitches or other medical care,
 - broken bones, and
 - petechiae⁴
- No prior misdemeanor convictions involving violence, threats of violence, or weapons
- No child present as a witness or involved in incident⁵
- No strangulation of victim⁶

² Cases contemplated by this agreement involve §273.5 PC cases in which parties who are or were married, are or were cohabitants, or have a child in common or §245(a)(1) offenses in which parties have a current or former dating relationship or are relatives currently living in the same household.

³ If medical intervention is warranted, even if the victim declines, the case should be first seen by the District Attorney's Office.

⁴ Petechia is defined as a minute discolored spot on the surface of the skin or mucous membrane, caused by an underlying ruptured blood vessel. The presence of petechiae is often indicative of significant internal injury.

⁵ See Penal Code § 273a(a) standards for further explanation.

⁶ See revised Pen. Code § 273.5, amended language operative 1/1/12 ("A traumatic condition includes an "injury as a result of strangulation or suffocation, whether of a minor or serious nature. ... "[S]trangulation and suffocation include impeding the normal breathing or circulation of the blood of a person by applying pressure on the throat or neck.")

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- No direct referral in cases where:
 - the victim is pregnant,
 - the victim was particularly vulnerable (asleep, developmentally disabled, physically impaired),
 - the suspect has a history of making suicide threats,
 - the suspect previously engaged or is currently engaging in stalking behavior,
 - the suspect has threatened to abduct and/or injure children or other family members,
 - the suspect caused an injury to a pet(s)

Child Abuse/Endangerment (Penal Code §273a(a))/273d⁷)

- The victim is **over** the age of 8 and the following criteria apply:
- No weapon involved in the commission of the offense (e.g., used, possessed or threatened)
- No prior felony convictions
- No *significant injury* (including any loss of consciousness)⁸
 - Examples of *non-significant injuries*, include, but are not limited to:
 - minor redness,
 - swelling, scratches, or
 - moderate bruising

⁷ Penal Code §273d specifically deals with the infliction of cruel and unusual corporal punishment or infliction of an injury resulting in a traumatic condition upon the child. Depending upon the circumstances of the offense, the case may be brought for review as either a violation of section 273a(a) or a 273d with a statement from the suspect that conduct was discipline related. A parent has a right to reasonably discipline by punishing a child and may administer reasonable punishment. However, discipline is unjustifiable when it is not warranted by the circumstances, not necessary, or when such punishment, although warranted, was excessive. The severity of physical injury suffered by the child is only one factor in determining whether the case should be prosecuted as a felony or a misdemeanor.

⁸ If medical intervention is warranted, even if the child's parent or guardian declines, the case should be first seen by the District Attorney's Office.

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- Examples of *significant injury* include but are not limited to:
 - moderate to extensive bruising,
 - open wounds that required stitches or other medical care,
 - broken bones, and
 - petechiae⁹
- No prior misdemeanor convictions involving violence, threats of violence, or weapons
- No prior DCFS contact (the results of a check of both E-SCARS and the Family and Children's Index (FCI) confirming that there is no record of prior DCFS contact must be included in the police report submitted for review)

DIRECT FILING IS NOT AVAILABLE FOR THE FOLLOWING CRIMES

LADA will review all cases involving:

- Penal Code §646.9 - Stalking
- Penal Code §422.7 – Hate Crimes
- Penal Code §368 – Elder Abuse
- Penal Code §136.1 – Witness Intimidation

⁹ When there are petechiae in the eyes of a child, it can be indicative of traumatic brain injury.